



ENTERED

TAWANA C. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

The following constitutes the ruling of the court and has the force and effect therein described.

United States Bankruptcy Judge

Signed November 05, 2010

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

IN RE:

BERT MICHAEL CHAPMAN
MARIAN SHARREL CHAPMAN
DEBTORS

AMERICAN HOME MORTGAGE
SERVICING, INC
MOVANT

VS

BERT MICHAEL CHAPMAN
MARIAN SHARREL CHAPMAN
AND WALTER O'CHESKEY, TRUSTEE
RESPONDENTS

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CASE NO. 08-10293-RLJ-13

CHAPTER 13

AGREED ORDER MODIFYING STAY

The Court finds that Movant, American Home Mortgage Servicing, Inc, as servicing agent for Deutsche Bank National Trust Company, as Trustee on behalf of the Certificateholders for Ameriquest Mortgage Securities Inc. Series 2002-B, Asset-Backed Certificates (hereinafter collectively referred to as "Movant"), a secured creditor in this matter, has filed a Motion for Relief from Stay of Act Against Property ("Motion") concerning the real property located at 2108 Morris Sheppard Dr, Brownwood, Texas 76801 (the "Property"), and more particularly described in the deed of trust; that all required notices of the Motion and the hearing thereon have been properly served; and that the parties have agreed to modification of the 11 USC §362(a) stay with respect to the Property. Debtors have defaulted in the performance of certain obligations to Movant.

IT IS THEREFORE ORDERED THAT:

1. The 11 USC §362(a) stay as to Movant, its successors and/or assigns, in accordance with the parties' agreement, is hereby MODIFIED, and shall remain in effect provided Debtors comply with the following conditions:

- a. Debtors shall resume making all future monthly payments to Movant as they become due commencing December, 2010, each payment to be timely made in accordance with the terms and provisions of the loan documents between Movant and Debtors. Payments should be paid to American Home Mortgage Servicing, Inc, 4600 Regent Boulevard, Suite 200, Irving, Texas 75063.
- b. Debtors shall cure the post-petition arrearage currently due to Movant for the month(s) of May 2010 through and including November 2010 in the total amount of \$7,190.88, which includes a suspense balance of \$874.02, post-petition attorneys' fees and costs incurred by Movant in bringing this Motion in the amount of \$675.00, by making a payment of \$1,198.48 on or before the 15th day of each month for six (6) consecutive months beginning November, 2010, until that arrearage is cured.
- c. Within 30 days of the entry of this order, Debtors shall complete the modification of their Chapter 13 Plan with respect to Movant to include provisions for payment of the sum of \$7,190.48, the post-petition arrearage claimed by Movant in its Proof of Claim.
- d. Debtors shall remain current on those payments arising under the terms of their Chapter 13 plan.

1. Movant may apply the payments received hereunder first to attorneys' fees and costs and then to the remainder of the arrearage due to Movant as set forth above.

2. Debtors' tendering of a check to Movant which is subsequently returned due to an insufficiency of funds in the account upon which the check is drawn shall not constitute a "payment" as that term is used in Paragraph 1 of this Order.

3. Debtors' subsequent modification of their Plan in response to a notice of default under this Order provided by Movant to Debtors shall not constitute the curing of default described in such notice of default.

4. In the event that Debtors fail to comply with any of the conditions set forth in Paragraph 1 of this Order, and upon Movant's providing to Debtors and Debtors' attorney written notice of the noncompliance, by first class and certified mail, and upon Debtors' failure to cure the noncompliance and pay an additional amount of \$50.00 to reimburse Movant for the attorney fees and costs incurred in connection with the Notice of Default within eleven (11) days from the date of the written notice, the 11 USC §362(a) stay as to Movant, its successors and/or assigns, shall be terminated without notice or order of the Court, and Movant, its successors and/or assigns, shall be permitted to exercise any rights granted to it by the loan documents with respect to the Property including, but not limited to, the execution of a non-judicial foreclosure sale of the Property. Debtors' right to notice is expressly limited to two (2) events of noncompliance. Upon the third event of noncompliance, the 11 USC §362(a) stay as to Movant, its successors and/or assigns, shall be terminated without further notice or order, and Movant, its successors and/or assigns, shall be permitted to exercise its rights stated herein.

5. It is further ordered that Movant shall give the Trustee notice immediately upon foreclosure and that Movant shall amend or withdraw its claim herein within twenty (20) days after foreclosure.

6. In the event the Debtors convert to a Chapter 7 during the pendency of this bankruptcy case, the Debtors shall cure all arrearage due to Movant by the date of entry of the Order converting the case. Should the Debtors fail to timely cure said arrearage, Movant may abandon the terms of this agreement, and the 11 USC §362(a) stay, if any is in effect, shall terminate without further notice or order of the Court, and Movant, its successors and/or assigns, shall be free to exercise any rights granted to it by the loan documents with respect to the Property including, but not limited to, execution of a non-judicial foreclosure sale of the Property.

IT IS FURTHER ORDERED that the provisions of Bankruptcy Rule 4001(a)(3) are waived and the Order shall be in full force and effect upon signature of this Court.

END OF ORDER

7417-N-0365

AGREED TO AND APPROVED BY:

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